

HERMAN BLACK

IBLA 82-26

Decided December 4, 1981

Appeal from decision of Oregon State Office, Bureau of Land Management, declining to accept notices of location of mining claims for recordation. 3833 (952) (OR).

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

Under sec. 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2(b), the owners of unpatented lode or placer mining claims located after Oct. 21, 1976, within 90 days after the location of such claims, must file in the proper BLM office a copy of the official record of the notice of location or certificate of location. Failure to file such instruments timely is deemed conclusively to constitute an abandonment of the mining claims by the owners, and they are properly declared void.

APPEARANCES: Herman Black, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Herman Black appeals the Oregon State Office, Bureau of Land Management (BLM), decision of September 18, 1981, which returned the notices of location for the Alice Mine and Alice Mine Nos. 2, 3, and 4 lode mining claims, and the service fees for the recordation of four mining claims because the notices of location were not filed within 90 days after the date of location as required by section 314(b) of

the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(b) (1976), and 43 CFR 3833.1-2(b). ^{1/} The notices of location indicate that the claims were located February 2, 1980, and that the notices had been recorded in Kings County, Washington, February 12, 1980. The notices were received by BLM August 31, 1981.

Appellant states he was unaware of the need to record his claims with BLM until advised by the local forest ranger of the Snoqualmie National Forest, within which the claims are situated. With his appeal, appellant returned the notices of location which now bear a date of recording in King County, Washington, as August 13, 1981, but each notice continues to reflect February 2, 1980, as the date of location.

The mining claim laws of the State of Washington, at RCW 78.08.050, state:

78.08.050 Location notices -- Contents -- Recording. The discoverer of a lode shall within ninety days from the date of discovery, record in the office of the auditor of the county in which such lode is found, a notice containing the name or names of the locators, the date of the location, the number of feet in length claimed on each side of the discovery, the general course of the lode and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. [Enacted 1899.]

The date of location of the Alice Mine group of claims must be considered as February 2, 1980, notwithstanding the recording on August 13, 1981, in King County.

Section 314(b) of FLPMA requires the owner of unpatented lode mining claims located after October 21, 1976, to file a copy of the official record of the notice of location in the proper BLM office within 90 days after date of location; section 314(c) provides that failure to file the instruments required by section 314(b) shall be deemed conclusively to constitute an abandonment of the claim by the owner. The requirements of the statute and the consequences for noncompliance are restated in the regulations at 43 CFR 3833.1-2(b) and 3833.4(a).

As the copies of the notices of location for the Alice Mine group of claims were not filed with BLM within 90 days after February 2, 1980, the date of location, BLM correctly refused to accept the filings

^{1/} The BLM decision named only Alice Mine and Alice Mine No. 3 claims even though all four claims were represented on the location notices.

tendered August 31, 1981. The Alice Mine and Alice Mine Nos. 2, 3, and 4 lode mining claims must be deemed abandoned pursuant to section 314 of FLPMA.

Appellant may wish to consult with BLM about the possibility of relocating these claims.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Gail M. Frazier
Administrative Judge

